

E-Filed 6/23/2011

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

LESTER HOGAN,

Plaintiff,

v.

SAFEWAY STORES, a California corporation;
LOCAL 5 of the UNITED FOOD AND
COMMERCIAL WORKERS UNION, an
unincorporated association,

Defendants.

Case Number 5:10-cv-04262-JF/PSG

ORDER¹ RE: MOTION TO DISMISS
FIRST AMENDED COMPLAINT

[Re: Docket No. 27]

This case arises out of the alleged wrongful termination of Plaintiff Lester Hogan by Defendant Safeway Stores (“Safeway”). Hogan, a former union member, alleges that Defendant United Food and Commercial Workers Union, Local 5 (the “Union”) provided him inadequate representation by refusing to pursue arbitration of his grievance against Safeway.

Pursuant to Fed. R. Civ. P. 12(b)(6), the Union moved to dismiss Hogan’s first amended complaint on March 17, 2011. The Court heard oral argument on May 6, 2011, and indicated orally that it would grant the motion, with leave to amend. In light of the fact that Hogan now has filed a second amended complaint and Defendants have answered that pleading, the motion is now moot, and the Court will not issue a formal order.

¹ This disposition is not designated for publication in the official reports.

1 IT IS SO ORDERED.

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3 DATED: June 23, 2011

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JEREMY FOGEL
United States District Court